



BOARD FOR GEOLOGISTS AND GEOPHYSICISTS
2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926
TELEPHONE: (916) 263-2113
FAX: (916) 263-2099
E-mail: geology@dca.ca.gov
Website: www.geology.ca.gov



MINUTES OF THE MEETING OF THE BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

February 11, 2005

2535 Capitol Oaks Drive
Sacramento, CA 95833-2926

1. CALL MEETING TO ORDER

Craig Copelan, President, called the meeting to order at 9:30 a.m.

2. ROLL CALL TO ESTABLISH QUORUM

Craig Copelan, President
Robert A. Matthews, Ph.D., Vice President
William E. Black
Jeffrey Schmidt

Others in attendance:

Paul Sweeney, Executive Officer
George Dunfield, Enforcement Manager
DeLesa Swanigan, Office Manager
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
Tony Sawyer, Chair, Technical Advisory Committee (TAC)
Scott Magorien, Enforcement Oversight Committee
Kris Vyverberg, Department of Fish and Game
Clint Dalton, Center for Public Interest Law (CPIL)
Robert Tepel, SF Section AEG
Eric Huff, FOF Forester's Registration
Tracy Montez, DCA Office of Examination Resources
Judy Wolen, AEG Lobbyist
Seena Hoose
Rick Rempel
Trinda Bedrossian
Lee Howard

3. PUBLIC COMMENT ON NON-AGENDA ITEMS

Mr. Lee Howard addressed the Board regarding concerns that he had regarding publicly available information and the time involved in getting complaints resolved. Mr. Gary Duke, Legal Counsel to the Board asked Mr. Howard if he was a party in any

The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California

civil suits that were related to his complaint with the Board. Mr. Howard answered that yes, he was a party in civil suits relating to his complaint with the Board.

Mr. Robert Tepel distributed an article from Engineering Technical, the Newsletter from the National Society of Professional Engineers regarding the fact that licensure does not necessarily indicate a higher salary upon entry into the profession of civil engineering. He also indicated that in his capacity as a Member of the ASBOG Council of Examiners he was going to tell the Association of State Boards of Geology (ASBOG) about NCEES' new attempt to track examinees for licensure.

Ms. Seena Hoose addressed the Board and reminded them of their Mission Statement. By advocating strong enforcement, she felt that the Board was being diligent in fulfilling its Mission Statement.

4. APPROVAL OF THE MINUTES OF THE NOVEMBER 12, 2004 BOARD MEETING (COPELAN) (ACTION)

Dr. Matthews moved to approve the minutes from the November 12, 2004 Board meeting. Mr. Bill Black seconded. The motion passed unanimously.

5. STATUS REPORT ON THE REGISTERED GEOPHYSICIST OCCUPATIONAL ANALYSIS (MONTEZ) (POSSIBLE ACTION)

Dr. Tracy Montez reported that the Office of Examination Resources (OER) is moving forward with the Geophysicists Occupational Analysis (OA). OER has completed the first few steps of the process, i.e., reviewed background information, conducted interviews, and held first workshop. Seven (7) licensed Geophysicists participated in the workshop. The Geophysicists reviewed the work completed by OER and assisted OER in drafting Task and Knowledge Statements which takes the scope of practice and dissects it into very specific statements that will be included in a questionnaire. OER is ahead of schedule with the Geophysicists OA. The questionnaire is expected to be mailed out to licensed Geophysicists in the next few weeks.

6. CONSIDERATION OF APPLICATION FOR REGISTRATION AS A PROFESSIONAL GEOLOGIST UNDER SECTION 7847 OF ROBERT A. LINDER AND KURT A. ROTTWEILER (COPELAN) (POSSIBLE ACTION)

Jeffrey Schmidt made a motion to approve Mr. Linder's application for registration. Dr. Matthews seconded. The motion passed unanimously.

Dr. Matthews made a motion to deny Mr. Rottweiler's application for registration. Mr. Bill Black seconded. The motion passed unanimously.

7. CONSIDERATION OF NEW LEGISLATION ELIMINATING THE CALIFORNIA-SPECIFIC PORTION OF THE CALIFORNIA PROFESSIONAL GEOLOGIST LICENSING EXAMINATION (SWEENEY) (POSSIBLE ACTION)

After lengthy discussion, Mr. Copelan referred the issue to the Examination Committee for further review and study. The Examination Committee will provide an update at the May 20, 2005 Board Meeting.

8. REPORT ON PROPOSED NEW REGULATIONS (SWEENEY) (POSSIBLE ACTION)

- a. Complaint Disclosure Policy
- b. Increase in Cite and Fine penalties

Mr. Sweeney reported the following regulatory actions:

The Association of State Board's of Geology (ASBOG) is increasing the fee for its Fundamentals of Geology Exam from \$125 to \$150, effective with the Spring 2006 exam. The Board submitted a regulatory package to the Office of Administrative Law (OAL) to implement the fee increase. The public hearing is scheduled for May 20, 2005.

The Board will be submitting regulatory packages in May 2005 for the Complaint Disclosure Policy and Increase in Cite and Fine Penalties. The public hearing for both regulatory actions is tentatively scheduled for July 15, 2005.

9. Report on Executive Committee Meeting of January 25, 2005 (Copelan) (Possible action)

Mr. Copelan reported that the Executive Committee met on January 25, 2005 to discuss the Governor's Reorganization Proposal I which called for the elimination of the Board Members from overseeing the operations of the Board for Geologists and Geophysicists and having staff report directly to the Director of the Department of Consumer Affairs. After lengthy discussion and input from various individuals/organizations that were in attendance, the Executive Committee recommended that the Board be continued for various reasons, i.e., the provisions required by the Bagley-Keene Open Meeting Act which provides the public an opportunity to provide testimony at Board meetings regarding Board actions. Mr. Sweeney prepared a letter to the Little Hoover Commission dated January 25, 2005 to inform the Commission of the Board's recommendation.

10. Legislative Committee Report (Sweeney) (Possible action)

a. Report on Sunset Review Hearing on January 6, 2005

Mr. Sweeney reported the following:

Mr. Sweeney and Mr. Copelan testified on behalf of the Board. Mr. Sweeney directed the Board to Mr. Copelan's presentation included in the Board packet. During the legislative hearing, the Committee asked two questions regarding the Board: 1) Whether or not the Board needs a Petrogeologist to serve as a member of its Board. Mr. Sweeney answered in the affirmative; and 2) The Board's response to GRP 1. Mr. Sweeney testified that the Board maintains its opinion that enhancing geologic services provided to the public is still very important. The Board supports maintaining the Board's structure in one form or another, even if such structure/existence is consolidated with the Mining and Geology Board. The Board has not received a response to the hearing.

b. Little Hoover Commission and Governor's Reorganization Plan 1 (GRP1)

Mr. Sweeney reported that the Little Hoover Commission is expected to make its recommendations to the Governor and the Legislature by March 7, 2005. The Legislature will have 30 days to either vote for or against the proposal. The Board should be informed of the decision by April 8, 2005.

c. Report on comment letter of January 25, 2005 on GRP1

The Board has not received any comments to its January 25, 2005 letter.

11. Examination Committee report (Sweeney) (Possible action)

a. Report on preparations for March 4, 2005 Licensing Examinations

Mr. Sweeney reported that the Examination Committee met on January 14, 2005 to finalize the exam. Final changes are being made to the exam and it will soon go to the printer. The contracts for the examination facility rentals have been signed, proctors have been secured and the preparations for the exams are on schedule. We are still awaiting the signed copy of the ASBOG contract from ASBOG.

12. Technical Advisory Committee report (Sawyer) (Possible action)

a. Forest practice issues involving the practice of geology

Mr. Sawyer reported that Ms. Kris Vyverberg has drafted additional solicitation language for the Grant Solicitation process in the Salmonid Habitat Restoration Program; however, the TAC has not had an opportunity to review and comment on the language and that it would like to do so prior to the Board approving the language.

Ms. Seena Hoose indicated that she has reviewed the language and made several recommendations for changes that were accepted by the Board. The Board directed Ms. Vyverberg to move forward with posting the modified version in the Habitat Restoration Manual on DFG's web-site. Ms. Vyverberg will bring copies of the modified language to the May 6, 2006 TAC meeting for further review and possible revision.

Dr. Matthews made a motion to accept the additional solicitation language as modified. Jeffrey Schmidt seconded.

The motion passed unanimously.

b. Other issues from January 28, 2005 TAC meeting

Mr. Sawyer reported the following:

The TAC is recommending that the Board give them approval to explore and/or develop some type of training/seminar/cooperative effort with Foresters to provide current information that will assist the Foresters in determining when they need to utilize a Geologist.

The Board directed the TAC to investigate training opportunities that currently exist

and to work with the Foresters to come up with additional training.

The TAC is still working on the guidelines for various aspects of geological investigations and when a license is required.

13. Executive Officer's report (Sweeney) (Possible action)

a. Budget report (DCA Budget Office)

Mr. Sweeney informed the Board that our FY 05/06 BCP has been approved. The Enforcement Program will be getting two new positions, one Engineering Geologist and one Staff Services Analyst. Additionally, a new clerical assistant will be starting around April 1, 2005.

Mr. Sweeney directed the Board's attention to the Budget Report. We currently have a sufficient reserve (which is typically six months). Based on our existing level of funding, we are not projected to enter into a deficit until 2013.

b. Enforcement report (Enforcement Manager George Dunfield)

Mr. Dunfield reported the following:

- The Board has received 17 new enforcement cases since the last Board meeting. The percentage of environmental cases has increased from 54% to 61%.
- Mr. Dunfield has been requested by Dr. Ravi Arulanantham to participate in a new class entitled "Conceptual Site Models and the Data Necessary to Make Technical Decisions Regarding Cleanup and Site Closure." The class is being held on May 17, 2005 in Sacramento.
- Mr. Dunfield responded to a request from a CalTrans supervisor seeking to sharpen and broaden technical skills of Engineers and Geologists working cooperatively together during completion of stability of slope reviews, etc. The supervisor inquired as to whether or not the two professions can work under each other's responsible charge with respect to their areas of expertise. Mr. Dunfield responded in the affirmative.
- Mr. Dunfield has been working with DCA headquarters on the CAS to get internet listing of licensees' enforcement status reflected in real time. The connection to the web-page is now working.
- Mr. Dunfield has been requested by the Deputy Attorney General's Office to testify as an Expert Witness during prosecution of the Board's accusation against two Professional Geologists.
- Mr. Dunfield sought clarification as to whether or not the Board is constrained by §125.9(d) of the Business and Professions Code's Citation and Fine process in regards to Judges' Decisions/Findings of Fact. Mr. Duke confirmed that it is permissible for the Board to post such findings on its web-site. The Board directed Mr. Dunfield to move forward with posting Judges' Decisions/Findings

of Fact on the Board's web-site.

- Mr. Dunfield has been responding to issues surrounding the landslides in Ventura and San Diego Counties. He has been assisting local jurisdictions as needed.
- Mr. Dunfield provided an update on the Anthony Jaramillo case. The writ hearing for the first citation for unlicensed practice of geophysics occurred on December 17, 2004, wherein the Superior Court denied Mr. Jaramillo's appeal. The second Citation and Fine decision (also for unlicensed practice of geophysics) was signed on January 4, 2005. Accordingly, the time for Jaramillo to file a second writ of mandate related to the second citation matter was on or before March 3, 2005. Upon final resolution of the case, the Finding of Facts specifically describing each step of the case will be posted on the Board's web-site.
- Mr. Magorien informed the Board that he has met with the Committee once and reviewed approximately 12 out of the 24 closed cases. The purpose of the review is to try to assess if there are any trends in the nature of the cases. The Committee has not made a determination as of this date.

c. Other informational items

Mr. Sweeney reported the following informational items:

Mr. Sweeney forwarded an e-mail to Ms. Hicks at the State Personnel Board regarding the Professional Geologist name change and how it affects the Engineering Geologist deep class.

The Geologist-in-Training (GIT) Certification program went into effect January 1, 2005. Two applicants applied for the GIT certification in the Spring 2005 exam. The GIT certificates have been developed.

Mr. Bill Black informed the Board that he has had some interaction with the media regarding GRP I. Approximately one month ago, there was an article in the Press Democratic Santa Rosa indicating that the Governor wanted to eliminate 88 Boards. The article used as an example the fact that there are a few Boards where the Board Members make \$100,000 per year. The way the article was written gave the implication that all Board Members are paid \$100,000 or more. Mr. Black wrote a letter in response to the article enlightening the publisher as to the amount most Board Members are paid. Mr. Black's article was published and shortly thereafter, he received a call from a reporter wanting to interview him about the article. After discussion with Mr. Sweeney, Mr. Black conducted the interview under his own auspices rather than that of the Board. He also received an invitation for an interview from a radio station in Santa Rosa, KSRO. Mr. Black conducted the interview.

14. Legal report (Duke) (Possible action)

Mr. Sweeney distributed an October 2004 letter written by Mr. Duke that discusses

slope stability factors of safety.

CLOSED SESSION

[Pursuant to Government Code §§ 11126(a) and (b) 11126(c)(1), 11126(c)(3) and 11126(e)(1)]

- 15. Discussion of personnel matters, examination procedures and results, and pending litigation (as needed) (Copelan) (Possible action)**

OPEN SESSION

- 16. Report on results of Closed Session (Copelan) (Possible action)**

The closed session was not conducted.

Announcements (Board President) (Possible action)

Mr. Copelan announced that the next Board meeting will be held on May 20, 2005.

- 18. ADJOURN MEETING**

Mr. Copelan adjourned the meeting at approximately 1:00 p.m.

CRAIG A. COPELAN, P.E., BOARD PRESIDENT

PAUL SWEENEY, BOARD EXECUTIVE OFFICER

Date Approved: May 20, 2005